E-FILED
Rachel Dombrowski, Clerk
Appellate Court of Maryland
7/12/2023 12:02 AM

RECORD EXTRACT OF APPELLANT

IN THE
APPELLATE COURT
OF MARYLAND

September Term 2023,
No. 61

JUSTIN HOLDER

Appellant

V.

BENJAMIN ESTES

Appellee

Appeal from the Circuit Court of Washington County
The Honorable Andrew F. Wilkinson

RECORD EXTRACT

Volume 5C

JUSTIN HOLDER
APPELLANT

E-FILED; Washington Circuit Court
Docket: 1/10/2022 2:20 PM; Submission: 1/10/2022 2:20 PM

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

BENJAMIN ESTES **Plaintiff** **v.** **JUSTIN HOLDER, *et al*.** **Defendants**	**Case No. C-21-CV-20-000430**

RESPONSE TO JUSTIN HOLDER'S
LINE – IN OBJECTION OF STIPULATION OF PARTIAL DISMISSAL

The Plaintiff, by and through his attorneys, Mark W. Schweitzer, Aaron D. Neal, and McNamee Hosea, P.A., responds to Justin Holder's Line – In Objection of Stipulation of Partial Dismissal, and says:

1. In his Line, Mr. Holder complains that he was not offered the chance to join in the stipulation by which Defendant Department of Natural Resources ("DNR") was dismissed from this case, citing to Md. Rule 2-506(a)(2).
2. By Mr. Holder's rationale, because he is a party to all of the claims, he has standing to object to the dismissal of a party.
3. Mr. Holder's rationale is wrong for a variety of reasons.
4. Most fundamentally, no counts were dismissed. Md. Rule 2-506(a)(2) limits the dismissal of entire claims by stipulation without joinder of all parties to that claim.
5. All of the pending counts of the operative complaint remain.
6. DNR was dismissed from the case because there were no longer any issues in dispute between DNR and the Plaintiff.
7. DNR was, at most, a nominal party in the quiet title and ejectment counts of the complaint.

8. There are two separate, discrete boundary lines at issue. Primarily, the boundary line running along the eastern side of land owned by Uncle Eddies Brokedown Palace and abutting the western side of land owned by Plaintiff. Secondarily, and relevant here, the boundary line running on the southern end of the Plaintiff's land abutting the northern side of the former railroad bed owned by DNR.
9. The resolution of the second boundary line does not implicate the issues with any of the other defendants nor does it dismiss any claim or sub-part of a claim relating to any of the other defendants. The stipulation between Plaintiff and DNR affects no parties other than the Plaintiff and DNR.
10. Because no claim involving Mr. Holder, Uncle Eddies or Deena Holder was dismissed, Md. Rule 2-506(a)(2) is not implicated with respect to them.
11. Mr. Holder's objection, to the extent it is read to include a request for some manner of relief, should be denied.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Mr. Holder's objection be denied and/or rejected.

Respectfully submitted,

McNamee Hosea, P.A.

/s/ Mark W. Schweitzer
Mark W. Schweitzer, Esq.
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/s/ Aaron D. Neal
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Attorneys for the Plaintiff

Certificate of Service

I hereby certify that on this 10th day of January, 2022, the foregoing paper filed via MDEC and thus served electronically upon all registered parties, including:

Brendan Callahan, Esq.
Justin Holder
Brandy Peeples, Esq.
Robert L. Kline, III, Esq.

/s/ Aaron D. Neal
Aaron D. Neal, Esq.

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

BENJAMIN ESTES	*	
Plaintiff	*	
v.	*	
	*	CASE NO.: C-21-CV-20-000430
JUSTIN HOLDER, Et Al	*	
Defendant(s)	*	

* *

MOTION FOR SUMMARY JUDGEMENT - COUNT VI - EJECTMENT

COMES NOW Defendant, Justin Kyle Holder, in proper person and files this Motion for Summary Judgement - Count VI - Ejectment, and for reasons states:

OVERVIEW

Plaintiff has sued the Defendants in a six-count complaint for injunctive relief and damages alleging Trespass and requesting relief by way of Ejectment where Plaintiff is not in possession, see RP 14-108.1(b)(1). In a suit for Ejectment the Plaintiff "must recover, if at all, upon the strength of his own title, and not by reason of the weakness of that of the defendant...." *Porter v. Schaffer*, 728 A.2d 755, 126 Md. App. 237 (Ct. Spec. App. 1999) citing *Joseph v. Bonaparte,* 118 Md. 591, 593, 85 A. 962 (1912).[1] The Plaintiff can not prove his title or a right to possession to the land in the possession of Defendant(s), and Count VI must fail.

[1] "Unless the plaintiff in ejectment shows a legal title and a right to possession, not barred by the statute of limitations, he cannot recover in ejectment under the settled law of this state, no matter what may be the rule in other jurisdictions. In 1 Poe, Pl. & Prac. (4 th Ed.) § 260 it is said: Three leading rules are enforced in the trial of ejectment causes: *First, the plaintiff cannot recover upon simply proving that his title is stronger or less defective than that of the defendant;* nor is it enough for him to show that the defendant had no title whatever, or not so good a one as his own, for the decision of the case does not turn upon any such comparison. He must recover, if at all, upon the strength of his own title, and not by reason of the weakness of that of the defendant, and **therefore the defendant may always defeat the action by proof of a clear subsisting title in a stranger. This has always been an established principle of ejectment law in Maryland**." [Emphasis added and provided] *Joseph v. Bonaparte,* 118 Md. 591, 593-94, 85 A. 962 (1912).

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Because certain material facts stated herein are not disputed, and because the straightforward application of the law to those facts compels but a single result, the expeditious resolution of these issues will significantly narrow the totality of issues required to be tried to verdict in this matter.[2] The grant of partial summary judgment for the reasons stated herein comports with the justice, the applicable legal standards, and serves the ever-increasingly important principles of judicial economy.

UNDISPUTED FACTS

1. My name is Justin K. Holder and I am an adult resident of Washington County, Md.
2. Frederic Mark Frederick is a licensed Land Surveyor in the State of Maryland, assigned Dept. of Labor and Licensing identification number 10731 (Mr. "Frederick").
3. Mr. Frederick was employed by myself as my agent, beginning in March of 2018 to perform survey and engineering related to the "Holder Property", as it is referred to in the Plaintiff's Second Amended Complaint at ¶21.
4. On February 13th, 2020 I met with Expert Surveyor Frederic Frederick (Mr. "Frederick") in his office at 128 South Potomac street in Hagerstown, Maryland.
5. On February 13th, 2020 Mr. Frederick provided myself with an opinion letter discussing the title line deviations of the subject properties in the instant lawsuit, see ***Exhibit 1 - Mr. Frederick February 13th, 2020 letter*** (the "February 13th letter").
6. I have personally spent over 200 hours examining the chains of title to the subject properties and reading deeds related to the instant litigation.

[2] ¶60 of Plaintiff's Second Amended Complaint states "In the alternative, and only to the extent that the Court determines that Defendants are in actual or constructive possession of some portion of the Estes Property, Plaintiff is entitled to relief by way of ejectment under Md. Real Prop. Code Ann. §14-108.1." While not pertinent to the instant Motion specifically, at trial when Plaintiff attempts to prove damages, the facts will be abundantly clear that the grass was only mowed in the area Defendant(s) are in possession of, and Plaintiff has no title or right to possession of the area where the grass was mowed. Therefore Count(s) I, II, III and IV will also fail at trial, or before.

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7. I have personally confirmed the accuracy and validity of Mr. Frederick's February 13th letter and opinion at the first sentence of paragraph 2, which states:

> "However, when I look at the adjoining deed for Ben Estes when I trace it back the older description **(Liber 960, folio 502)** that deed runs in the reverse direction and although the bearings and distances match very well, the calls are slightly different." [Emphasis Added]

8. I have personally confirmed that beginning with Plaintiff Estes' most current title deed, all deeds in the chain of title purports to transfer the same land as the land described on title deed Recorded at Liber 960 folio 502 among the land records of Washington County, Maryland (deed "L960f502"); excluding the land on plat 5330 recorded among the plat records of Washington County, Maryland that was granted to now or formerly Watkins.
9. I have personally read Defendant Uncle Eddies brokedown palace LLC's most current title deed, Recorded at Liber 6468 folio 345 among the land records of Washington County, Maryland (deed "L6468f345").
10. Title Deed L6468f345 contains a list of the predecessor deeds in the chain of title to Grantee and I have personally read all of the deeds mentioned on L6468f345.
11. I have read Deed dated September 10th, 1832 granted from David Hess of Montgomery County, Ohio to Samuel Cost of Washington County, Maryland, recorded at Liber N. N. Folio 520 among the Land Records of Washington County, Maryland (deed "NN520".
12. The 5th through 8th lines of the property description on deed NN520 are identical to 1st through 4th lines of the property described as being transferred in deed L6468f345, and the 15th through 18th lines on deed L960f502 "Tract A" (excepting the 2 degrees difference in bearing between the 1st line on deed L6468f345 , 5th line on deed NN520 and 18th line on deed L960f502 (the "OG Boundary" line).
13. I have personally confirmed with assistance from my agent, Mr. Frederick that lines 1 and 2 on deed NN520 and L6468f345 (the "Southern 2" lines) fall in the the Little

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Antietam Creek and Mr. Frederick's survey crew placed a stake at the Northern end of the Southern 2 lines, a picture of which was produced by Plaintiff in discovery and identified as Estes document 0311, see ***Exhibit 2 - Estes 0311 Stake in middle of creek***.

14. I have personally confirmed with assistance from my agent, Mr. Frederick that lines 3 and 4 on deed NN520 and L6468f345 (the "Northern 2" lines) begin in the the Little Antietam Creek and Defendants are not in possession of any land East of the Northern 2 lines described as the "Estes property" in ¶2 of Plaintiff's Second Amended Complaint.
15. I have personal knowledge that there was a tragic fire at 22 Mt. Hebron Road, Keedysville, MD 21756 in December 2005 that destroyed the Stone house located there.
16. I have personal knowledge that the "Estes Property" described in Plaintiff's Second Amended Complaint ¶2 was vacant and unoccupied from the year 2006 through 2009.
17. I have personal knowledge that there is no person or party in actual possession of the Little Antietam Creek or Land beneath the waters of the Little Antietam Creek as it is depicted on Plat 9186 recorded among the land records of Washington County, Md.

DEPOSITION TESTIMONY - RECORD TITLE[3]

18.Plaintiff's rebuttal Expert John Dowling, Esq. described the Frederick's "deviation" from the Northern 2 lines of the OG boundary line and the "Estes Property" boundary lines with precision , see link to deposition recording: https://youtu.be/k3ddTlC34Go [.]

19.Plaintiff's rebuttal Expert John Dowling, Esq. describes his opinion as "identical" to what Mr. Frederick drew in red on pp. 6-7 of the February 13th letter, as the Northern 2 lines of the OG boundary line, see link to deposition recording: https://youtu.be/aOPL6je2dbg [.]

20.Plaintiff's rebuttal Expert John Dowling, Esq. is clear Mr. Fredericks boundary Plaintiff relies on in his description of the "Estes Property" deviated from the Northern 2 lines of the OG boundary title lines, see link to deposition recording: https://youtu.be/v2a3VPvhRqE [.]

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[3] John Dowling was examined beginning on March 1st, 2022 and concluding on March 18th, 2022. The transcript has not yet been produced and will be provided prior to hearing.

LEGAL STANDARD - SUMMARY JUDGEMENT

Maryland Rule 2-501(a) provides:

> "Any party may file a written motion for summary judgment on all or part of an action on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law. The motion shall be supported by affidavit if it is (1) filed before the day on which the adverse party's initial pleading or motion is filed or (2) based on facts not contained in the record."

Rule 2-501(b) provides:

> "A response to a motion for summary judgment shall be in writing and shall (1) identify with particularity each material fact as to which it is contended that there is a genuine dispute and (2) as to each such fact, identify and attach the relevant portion of the specific document, discovery response, transcript of testimony (by page and line), or other statement under oath that demonstrates the dispute. A response asserting the existence of a material fact or controverting any fact contained in the record shall be supported by an affidavit or other written statement under oath."

Rule 2-501(f) provides:

> "The court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law. By order pursuant to Rule 2-602(b), the court may direct entry of judgment (1) for or against one or more but less than all of the parties to the action, (2) upon one or more but less than all of the claims presented by a party to the action, or (3) for some but less than all of the amount requested when the claim for relief is for money only and the court reserves disposition of the balance of the amount requested."

As such, when the material facts are not genuinely disputed, and the application of the law to those facts requires an outcome in favor of the moving party, the court should, pursuant to the rule, and in service of principles of judicial economy, grant judgment in favor of the moving party. To overcome a motion for summary judgment, the opposing party must demonstrate a genuine dispute as to a material fact by proffering facts that would be admissible in evidence. *See Hoffman Chev. v. Wash. Co. Nat'l Sav.*, 297 Md. 691, 711-15 (1983); *Shaffer v. Lohr*, 264 Md. 397, 404 (1972); *Broadfording Ch. v. Western Md. Ry.*, 262 Md. 84,

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89 (1971). General allegations which do not establish admissible facts in detail and with precision are insufficient to prevent summary judgment. *Lynx, Inc. v. Ordnance Products*, 273 Md. 1, 7-8 (1974). *Brown v. Suburban Cadillac, Inc*., 260 Md. 251, 256-57 (1971).

LEGAL STANDARD - EJECTMENT

1.Plaintiff's Amended Complaint asserts an action for possession under Real Property Article, § 14-108.1, which provides: "(b)(1) A person who is not in possession of property and claims title and right to possession may bring an action for possession against the person in possession of the property."

2.Plaintiff's claim for possession is in the alternative to its claim to quiet title. A party who is not in actual or constructive possession of property cannot plead a quiet title action, and must, instead, resort to an action for possession, otherwise known as an ejectment action. The Court of Special Appeals described this distinction between the actions in *Porter v. Schaffer*, 126 Md. App. 237 (1999):

> "We believe the rule articulated in the foregoing authorities appropriately reflects the difference between an action in ejectment and an action to quiet title. Historically, quiet title was an equitable remedy, whereas ejectment was a remedy at law. Prior to the merger of law and equity in 1984, see Md. Rule 2-301, plaintiffs were required to determine, as a matter of pleading, whether to proceed in equity or law. The fundamental difference between the two was the question of possession. The 'ground of equity jurisdiction' in a bill *quia timet* was the fact of actual or constructive possession. *Barnes v. Webster*, 220 Md. 473, 475, 154 A.2d 918 (1959); see *Thomas v. Hardisty,* 217 Md. 523, 529, 143 A.2d 618 (1958); *Textor v. Shipley*, 77 Md. 473, 475, 26 A. 1019 (1893). Thus, when an owner was not in possession, a bill *quia timet* would not lie, because the owner could resort to the legal remedy of ejectment. See *Glorius v. Watkins*, 203 Md. 546, 549, 102 A.2d 274 (1954) (rejecting equity jurisdiction because the plaintiff was not in possession, stating: 'Equity entertains jurisdiction where, although the complainant fears vexatious litigation due to a cloud on his title, he nevertheless cannot sue in ejectment because he is already in possession.')."

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3.The *Porter* Court made clear that RP 14-108.1 is the means by which an ejectment action is brought.

> "Possession by the putative owner continues to be a distinguishing feature of an action to quiet title. In 1955, the Legislature enacted Md.Code (1951, 1955 Repl. Vol.), Art. 16 § 128, the predecessor to the current quiet title provision, now found in R.P. § 14-108. See 1955 Md. Laws, Chap. 376. Real Property § 14-108 requires a claimant to prove 'actual peaceable possession of property' or, in the case of wild lands, 'constructive and peaceable possession of it.' R.P. § 14-108(a). Ejectment actions involving tenant-landlord disputes and remedies for unlawful possession of the premises after the delivery of a deed were placed in the original jurisdiction of the district court. See R.P. § 8-402 through § 8-402.2; R.P. § 14-109. In all other cases, 'a person who is not in possession of property and claims title and right to possession' may bring an action for ejectment in the circuit court, pursuant to R.P. § 14-108.1. Nevertheless, in *Thomas v. Hardisty, supra*, 217 Md. at 530, 143 A.2d 618, the Court of Appeals made clear that the quiet title statute did not 'derogate or in any way conflict[ ] with' the 'firmly established' jurisdictional divide between quiet title and ejectment. See *Romney v. Steinem*, 228 Md. 605, 608, 180 A.2d 873 (1962); *Cherry v. Siegert*, 215 Md. 81, 85, 136 A.2d 754 (1957) (stating that the 1955 statute was 'merely declaratory of the law as it existed prior to June 1, 1955')." (Emphasis added).

4.Thus, the Plaintiff's action for possession under RP § 14-108.1 is an action at law for ejectment.

5.The Court then explained the important policy reasons for the allocation of the burden of proof in an ejectment action:

> "Possession is relevant to a discussion of the burdens of proof in the following sense. In an action in ejectment, it is the defendant who has possession. A possessor should not be ousted by one whose title is weakened by the claim of a third party, because as between a possessor-defendant and the person seeking ejectment, the possessor has a stake in the property, by virtue of his possession, which outweighs the stake of a non-possessing plaintiff whose title is inferior to that of a third party. In a quiet title action, however, the plaintiff, and not the defendant, must prove possession and a legal claim to title before the burden is shifted to the defendant to establish superior title. Therefore, unlike an action in ejectment, the defendant in a quiet title action who cannot establish his own record title has no basis to complain about the strength of the plaintiff's title, even if a third party may have a superior record title claim."

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Porter v. Schaffer, 728 A.2d 755, 126 Md. App. 237 (Ct. Spec. App. 1999).

6.Plaintiff must establish his own title, and he must establish that his action is not barred by limitation - that is to say that the Plaintiff has not lost title by the adverse possession of the Defendants and/or their predecessors in title. "Unless the plaintiff in ejectment shows a legal title and a right to possession, not barred by the Statute of Limitations, he cannot recover in ejectment under the settled law of this State, no matter what may be the rule in other jurisdictions." *Joseph v. Bonaparte*, 118 Md. 591 (1912).

ARGUMENT - BURDEN OF PROOF

In order for the Plaintiff to be afforded relief in a suit for ejectment, the Plaintiff must prove he is not in possession of the property and is entitled to possession of same. There is no dispute of fact that the Plaintiff is in possession of the "Estes Property" placed "*in rem*" East of the OG boundary line. There is no dispute of fact that the Defendant(s) are in possession of the "Estes Property" placed "*in rem*" and West of the OG boundary line. The Difference in the OG boundary line and Mr. Frederick's "deviation"[4] from the OG boundary line is best depicted in a compilation of discovery documents produced by the Plaintiff and described in ***Exhibit 3 - ESTES RPD*** (excerpt from p.5. OG boundary black - Frederick's deviation blue depicted to right demonstratively).

[4] Mr. Frederick, as described in his February 13th letter deviated from the Northern 2 lines of the OG boundary substituting the following 3 lines in deed recorded at Liber 6070 folio 201 among the land records of Washington County, Maryland as "to a point in or near the edge of the Little Antietam Creek, thence running with the Little Antietam Creek, ***[courses and distances] thence running into said lands S23°46'58"W 13.52 feet to a point, thence S 55°03'22" E 55.83 feet to a point, thence S 0°18'05" E 57.27 feet to a point, thence S 3°4739" W 203.44 feet to a point in the Little Antietam Creek, thence with said Creek." (Mr. Frederick's "deviation")

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Conceding for the purpose of this motion, Plaintiff can produce factual evidence to prove his possession of the land west of the OG boundary line, Plaintiff can not do so for the statutory required 20 years. Plaintiff has only been in possession of the "Estes Property" for 10 years and has failed in discovery to produce any evidence of predecessor "tacking". Plaintiff's allegations at ¶¶ 29-31 & 35 of Second Amended Complaint can not and will not be proven true. Plaintiff can not meet the burden of proof with the factual evidence required to establish his claim to right to land west of the OG boundary line in the possession of the Defendant(s). Therefore his claim to right by adverse possession fails as a matter of law.

The Plaintiff has not produced a title report or any land records in discovery that granted Plaintiff or his predecessor any claim to land west of the OG boundary line. There has not been testimony from any expert witnesses that Plaintiff or predecessor has any claim to land west of the OG boundary line. The Plaintiff can not meet the burden required to establish a claim of recorded paper title superior to Defendants' paper title.

CONCLUSION

The Plaintiff has failed in discovery to produce recorded title to land west of the OG boundary line.[5] The Plaintiff has failed in discovery to produce a fact witness that can testify to any predecessor "tacking" of his claim to right by adverse possession of land west of the OG boundary line. Plaintiff's suit in ejectment must fail. Plaintiff can not meet the burden of proof required to establish his own title or claim to right to the land west of the OG boundary line. Plaintiff does not claim Defendant(s) are in possession of the land east of the OG boundary line and Plaintiff is not entitled to relief under RP § 14-108.1 when the Plaintiff is in possession of said land.

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[5] Plaintiff has failed to provide any title expert or land records in discovery to establish paper title to land South of the spring branch depicted on Plaintiff's Plat 9186 recorded among the Plat records of Washington County, MD prior to 1880; however Plaintiff is in possession of that land and his burden as of Count V will need to be met at trial.

WHEREFORE, the Defendant humbly requests judgment as a matter of law in favor of the Defendant(s) and against the Plaintiff as to Count VI for Ejectment, because plaintiff is unable to bring forward sufficient evidence proving the strength of his title/claim to right.

VERIFICATION

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the ***"Undisputed Facts"*** section, paragraph's 1 to 17, under the "Undisputed Facts" headings are true.

Justin K. Holder, *Pro Se*

Respectfully submitted,

Justin K. Holder, *Pro Se*
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(240) 356-2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of May 2022, a copy of the foregoing Motion for Summary Judgement - Count VI - Ejectment was served via the MDEC system to :

Timothy Maloney, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se;*

Justin K. Holder, *Pro Se*

Justin K. Holder

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FSA
FREDERICK, SEIBERT & ASSOCIATES, INC.
CIVIL ENGINEERING | SURVEYING | LANDSCAPE ARCHITECTURE

February 13, 2020

Justin Holder

RE: FSA Survey dated 2018 for Uncle Eddie's Broken Down Palace (Justin Holder) and FSA original survey dated 1993 for Richard Jolles and recorded at Washington County Plat No. 4040

Dear Mr. Holder,

Per your request I have plotted the old deed for you property and have shown in red overlaying our boundary survey for Uncle Eddie's Broken Down Palace. This red line which is deed plotting of Liber 154, folio 229 does appear to take the boundary much closer to the western edge of Little Antietam Creek or into Little Antietam Creek.

However, when I look at the adjoining deed for Ben Estes when I trace it back the older description (Liber 960, folio 502) that deed runs in the reverse direction and although the bearings and distances match very well, the calls are slightly different. For example that deed says "thence with said deed crossing Little Antietam, S 24° W 4 ¾ perches to a stone, thence S 19° E 5 ½ perches, S 10 1/2° 11 ½ perches, thence S 31° W 9 perches, thence S 20° W 17 Perches. Please note that first line of S 24° W 4 ¾ perches to a stone clearly indicates that it goes across the creek and hits land for it to call out for a stone. Then the balance of those calls never call for running down the creek or along the west bank even though the bearings and distances match your adjoining deed.

Secondly, when I do plot your deed the second to last call does not have a distance and the final call basically says along the railroad right-of-way to the place of beginning and therefore, it is a forced closure. Thus, I cannot prove the accuracy of that 1800's deed. What I do know about an 1800's deed is that it was done using a chain and a compass or old transit and is not nearly as accurate as today's survey standards.

Finally, when we did the first survey in this neighborhood it was the 1993 survey for Richard Jolles and recorded at Washington County Plat folio 4040. When we did that survey and we crossed the creek onto your side of the creek we found old evidence of a blazed tree and fence post and a fence line and it was our intent to try to follow what we believed was the intent of the old deed and thus we held those old possession lines. We do note that other than the most northern area of this boundary dispute between you and Mr. Estes the southern two lines do fall either in the creek or on the very edge of the west bank and therefore there should be little or no discrepancy of your boundaries in that area.

I hope this information sheds some light on how surveyors try to resolve these old boundary descriptions and most importantly I hope you and Mr. Estes can come to terms on settling

whatever your differences are and especially with this tiny parcel of ground that is physically separated by Little Antietam Creek from the bulk of Mr. Estes ground but recognizing in 1993 we did find old fence line and possession line of that area when surveying for Richard Jolles who was a predecessor in title to the Estes property.

Sincerely,
FREDERICK, SEIBERT AND ASSOCIATES, INC.

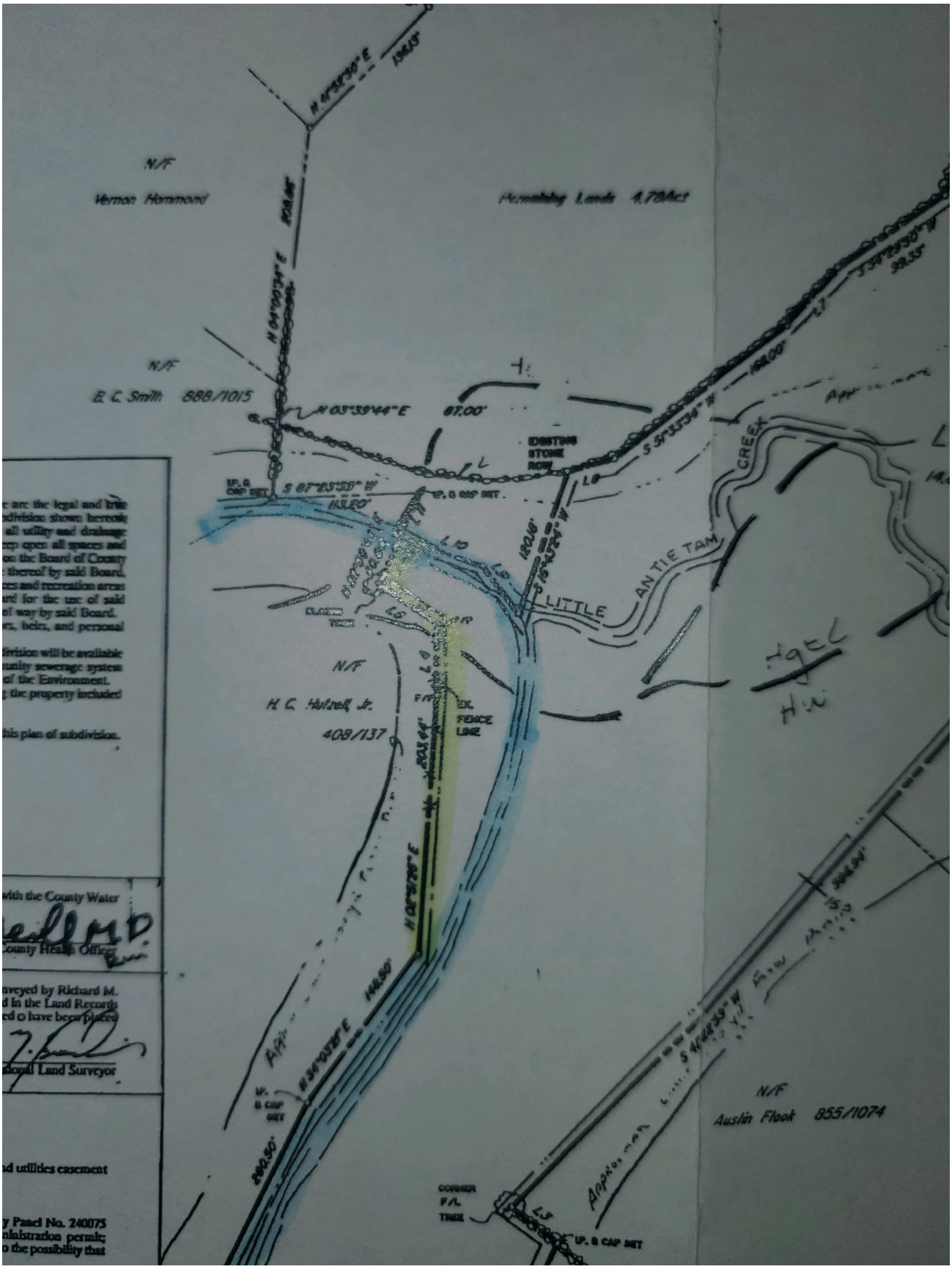
Frederic M. Frederick, RLS, PE
President

Attachments: Boundary Survey for Uncle Eddies with redline of old deed line (Liber 154, folio 229)
Original 1993 survey for Richard Jolles as recorded in Plat folio 4040

FMF/vab.7412 letter

WASHINGTON COUNTY CIRCUIT COURT (Subdivision Plats, WA) Plat 4040, MSA_S1255_902. Date available 1993/04/06. Printed 02/13/2020.

MSA S514 1255-902


N/F
Herman Hammond
Homestead Lands 4.78Acs
N/F
E.C. Smith 888/1015
N 03°39'44" E 87.00'
EXISTING STONE ROW
S 87°25'59" W
143.20'
LITTLE ANTIETAM CREEK
N/F
H.C. Hallwell Jr.
408/137
FENCE LINE
N 87°25'26" E
148.90'
N/F
Austin Flook 855/1074
CORNER F/L TREE
UP. & CAP SET
with the County Water
County Health Officer
surveyed by Richard M.
d in the Land Records
ed o have been placed
Licensed Land Surveyor
d utilities easement
y Panel No. 240075
nistration permit;
o the possibility that

Boundary Survey
for
Uncle Eddie's Broken
Down Palace, LLC
situate at 28 Antietam Drive, Keedysville
WASHINGTON COUNTY, MARYLAND
FREDERICK SEIBERT & ASSOCIATES, INC.
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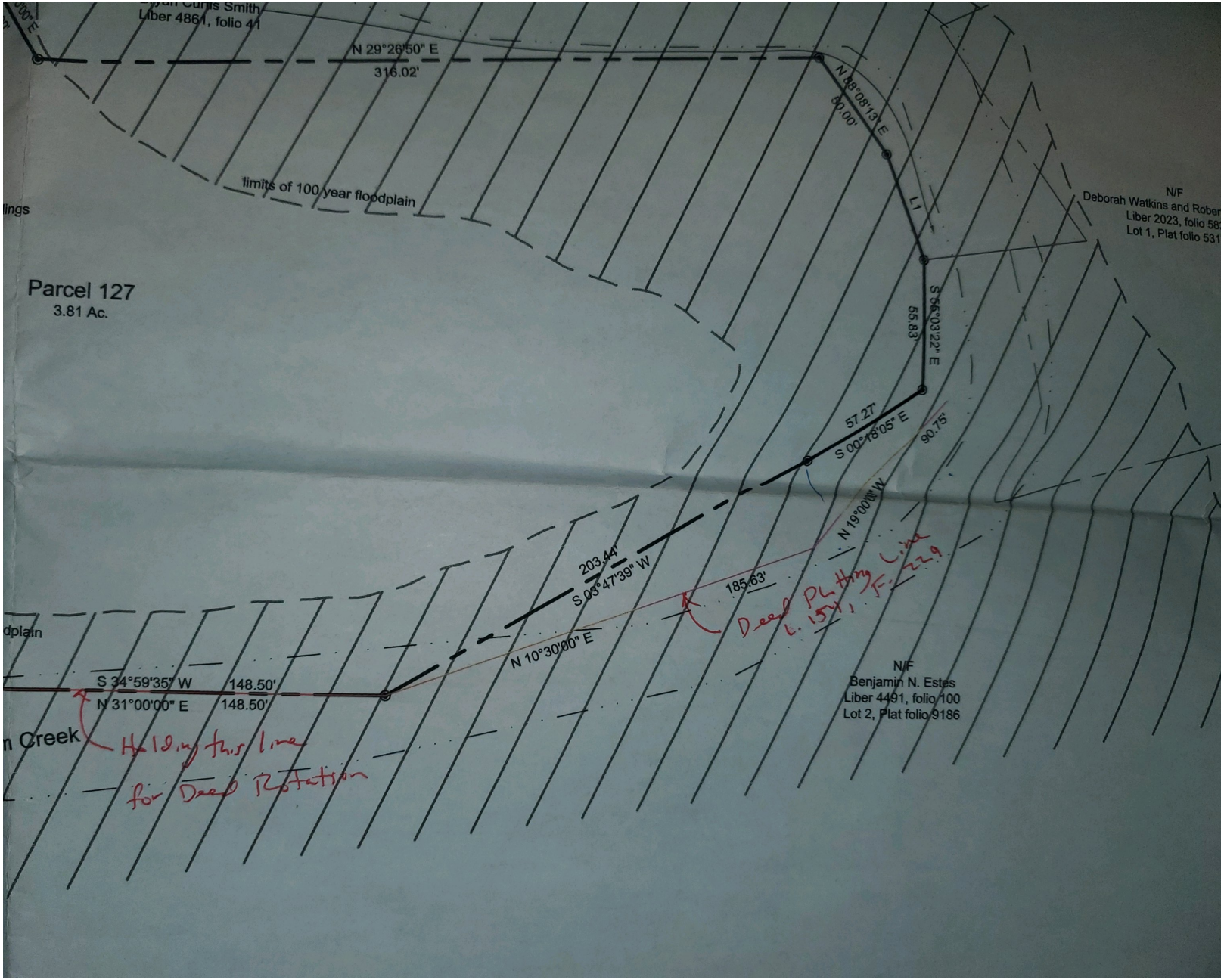
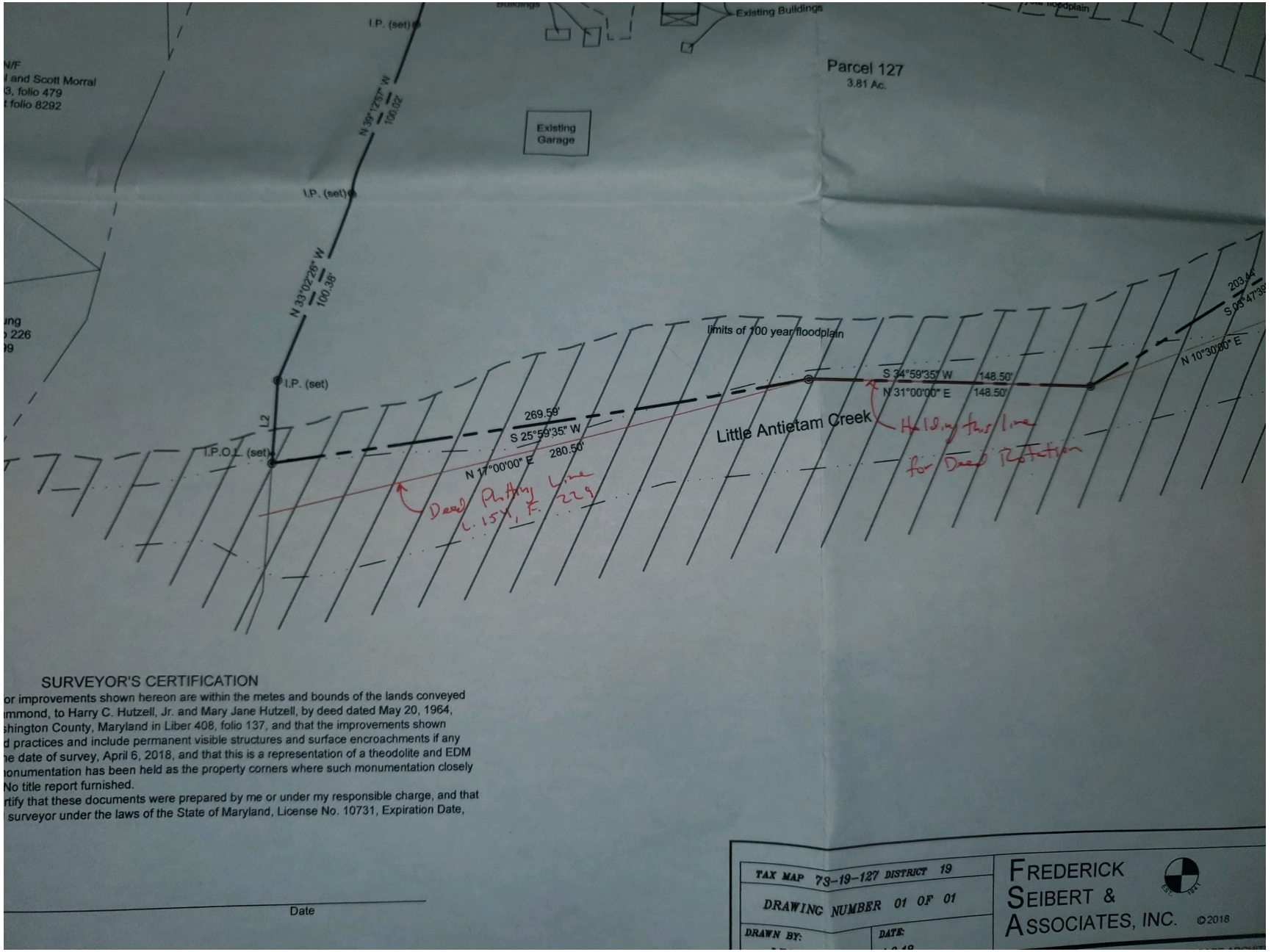
TAX MAP 79 PARCEL 127 DISTRICT 19
DRAWING NUMBER 01 OF 01
DRAWN BY: LEJ DATE: 4.6.18
CHECKED BY: DATE:
SCALE 1" = 50'
JOB NUMBER 7412
GRAPHIC SCALE
(IN FEET)
1 inch = 50 ft.
SURVEYOR'S CERTIFICATION
I hereby certify that the dwelling and/or improvements shown hereon are within the metes and bounds of the lands conveyed by Ivan S. Hammond and Virginia Hammond, Grantors, to Uncle Eddie's Broken Down Palace, LLC, Grantee, by deed dated May 31, 2017 and recorded in Liber 5471, folio 137, and that the improvements shown hereon were located by accepted field practices and include permanent visible structures and surface encroachments if any that exist on the subject property at the date of survey, April 6, 2018; and that this is a representation of a boundary and EDM survey that meets the minimum standards of practice adopted by the Maryland State Board of Professional Engineers as set forth in COMAR 09.13.06 and that to the best of my professional knowledge and belief it agrees with the recorded deed calls. No title report furnished.
Professional Certification: I hereby certify that these documents were prepared by me or under my responsible charge, and that I am a duly licensed professional land surveyor under the laws of the State of Maryland, License No. 10731, Expiration Date, January 16, 2020.
Professional Land Surveyor: _____ Date _____
N/F Dan Ryan Builders Mid-Atlantic, LLC Liber 5434, folio 404
N/F Jonathan Hale and Rhiannon Hass Liber 5586, folio 236 Lot 7, Plat folio 8292
N/F Marvil Grimes and Christopher Wetzel Liber 5586, folio 216 Lot 6, Plat folio 8292
N/F David Sowers and Sarah Sowers Liber 5471, folio 409 Lot 10, Plat folio 8292
N/F Jeffrey L. Young Liber 5512, folio 226 Plat folio 2499
N/F Christine Marie Marvil and Scott Marvil Liber 2363, folio 479 Lot 9, Plat folio 8292
N/F MD Natural Resources Liber 1015, folio 796
N/F Clair Finch Liber 5586, folio 469
N/F Byron Curtis Smith Liber 4897, folio 91
N/F Deborah Watkins and Robert Watkins Liber 2023, folio 583 Lot 1, Plat folio 5317
N/F Benjamin N. Estes Liber 4897, folio 106 Lot 2, Plat folio 5106
Existing Access to Antietam Drive Per Plat folio 8292
Existing Dwelling #28
Existing Dwelling #27
Existing Cistern
Existing Buildings
Existing Garage
Existing Driveway
Parcel 127 3.81 Ac.
Little Antietam Creek
limits of 100-year floodplain
limits of 100-year floodplain
MD GRID NORTH
N 27°34'12" E 87.38'
N 14°46'18" E 92.51'
S 61°15'10" E 50.04'
N 00°00'36" E 96.90'
S 35°33'19" E 69.11'
N 39°17'57" W 100.02'
N 41°09'39" W 100.15'
N 46°35'58" W 101.13'
N 33°02'26" W 100.38'
N 27°00'00" E 280.00'
S 23°59'33" W 269.56'
S 31°00'00" E 148.50'
N 19°00'00" E 203.40'
S 27°47'39" W 156.65'
S 66°00'27" E 65.89'
N 19°00'00" E 80.00'
S 66°00'27" E 90.76'
L1
L2
P.O.C. (set)
I.P. (set)
Dead Ruhny Line
Dead Ruhny Line
Dead Ruhny Line
Dead Ruhny Line
LINE TABLE
LINE BEARING DISTANCE
L1 N 19°00'00" E 47.68'
L2 N 33°29'39" W 20.27'


Liber 4861, folio 41
N 29°26'50" E
316.02'
N 69°08'13" E
60.00'
L1
limits of 100 year floodplain
N/F
Deborah Watkins and Rober
Liber 2023, folio 58
Lot 1, Plat folio 531
Parcel 127
3.81 Ac.
S 55°03'22" E
55.83'
57.27'
S 00°18'05" E
90.75'
N 19°00'00" W
203.44'
S 03°47'39" W
185.63'
Deed Plotting Line
L. 1571, F. 229
N 10°30'00" E
S 34°59'35" W
148.50'
N 31°00'00" E
148.50'
Holding this line
for Deed Rotation
N/F
Benjamin N. Estes
Liber 4491, folio 100
Lot 2, Plat folio 9186

1198



SURVEYOR'S CERTIFICATION

or improvements shown hereon are within the metes and bounds of the lands conveyed
mmond, to Harry C. Hutzell, Jr. and Mary Jane Hutzell, by deed dated May 20, 1964,
shington County, Maryland in Liber 408, folio 137, and that the improvements shown
d practices and include permanent visible structures and surface encroachments if any
he date of survey, April 6, 2018, and that this is a representation of a theodolite and EDM
onumentation has been held as the property corners where such monumentation closely
No title report furnished.
rtify that these documents were prepared by me or under my responsible charge, and that
surveyor under the laws of the State of Maryland, License No. 10731, Expiration Date,

Date

TAX MAP 73-19-127 DISTRICT 19

DRAWING NUMBER 01 OF 01

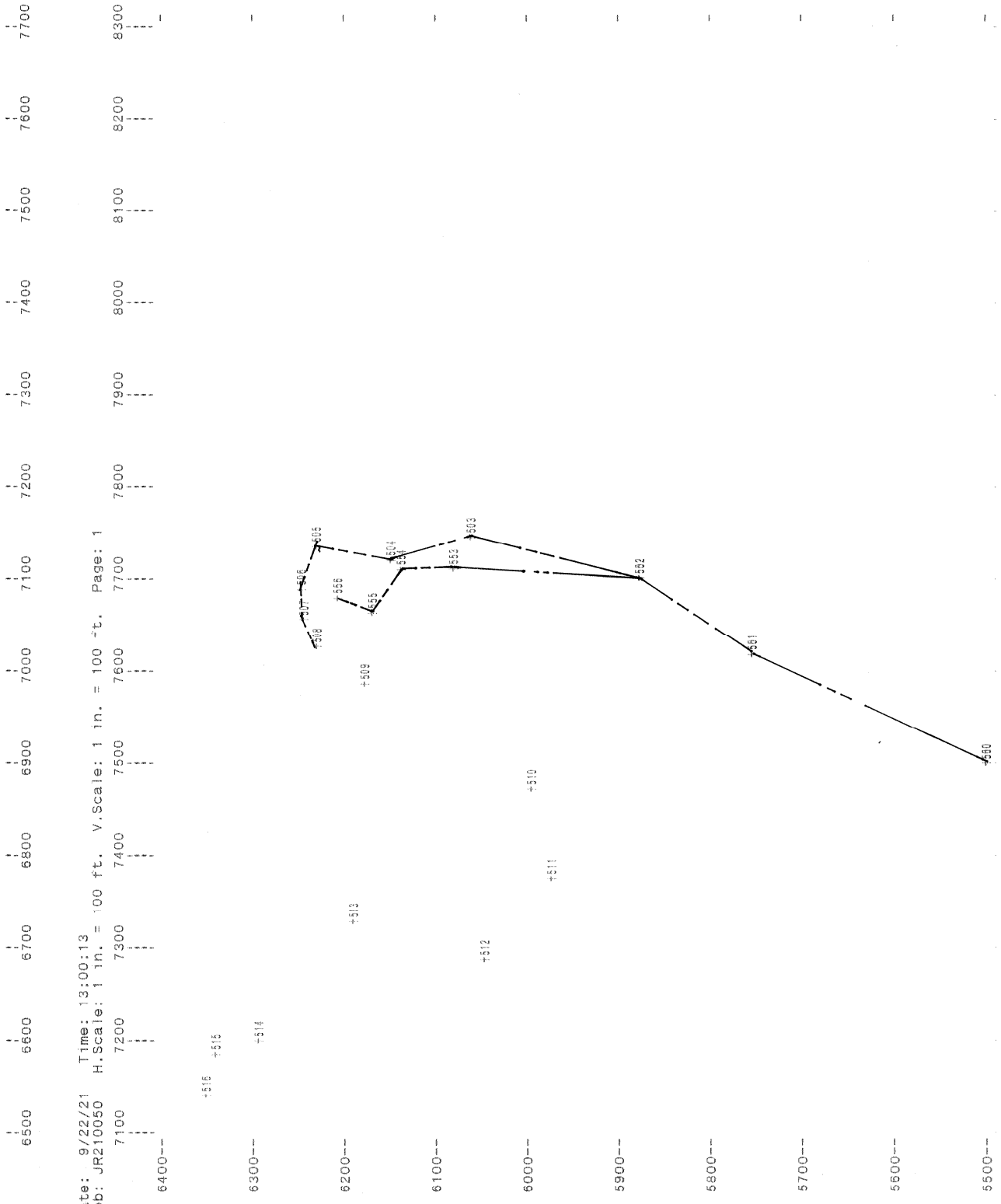
DRAWN BY:

DATE:

FREDERICK SEIBERT & ASSOCIATES, INC. ©2018

1199

1200


Date: 9/22/21 Time: 13:00:13
Job: JR210050 H.Scale: 1 in. = 100 ft. V.Scale: 1 in. = 100 ft. Page: 1